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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

GOOGLE LLC,

Plaintiff and Counterdefendant,

v.

SONOS, INC.,

Defendant and Counterclaimant.

Case No. 3:20-cv-06754-WHA
Related to Case No. 3:21-cv-07559-WHA

**DECLARATION OF COLE B.
RICHTER IN SUPPORT OF
GOOGLE'S ADMINISTRATIVE
MOTION TO CONSIDER WHETHER
ANOTHER PARTY'S MATERIAL
SHOULD BE SEALED (DKT. 399)**

I, Cole B. Richter, declare as follows and would so testify under oath if called upon to do so:

1. I am an attorney with the law firm of Lee Sullivan Shea & Smith LLP, counsel of record to Sonos, Inc. (“Sonos”) in the above-captioned matter. I am a member in good standing of the Bar of the State of Illinois. I have been admitted *pro hac vice* in this matter. I make this declaration based on my personal knowledge, unless otherwise noted. If called, I can and will testify competently to the matters set forth herein.

2. I make this declaration in support of Google LLC’s (“Google”) Administrative Motion to Consider Whether Another Party’s Material Should be Sealed, filed on November 10, 2022 (Dkt. 399) (“Administrative Motion”), in connection with the parties’ Joint Discovery Letter regarding Google’s Request for Production No. 58 (“Joint Discovery Letter”) (Dkt. 400).

3. Sonos seeks an order sealing the materials as listed below:

| Document | Portions Google Sought to Be Filed Under Seal | Portions Sonos Seeks to Be Filed Under Seal | Designating Party |
|------------------------|---|--|-------------------|
| Joint Discovery Letter | Portions highlighted in blue | Portions of text within the red box only (blue highlighting is original to Google’s submission) | Sonos |

4. I understand that the Ninth Circuit has recognized two different standards that may apply to a request to seal a document, the “compelling reasons” standard and the “good cause” standard. *Blessing v. Plex Sys., Inc.*, No. 21-CV-05951-PJH, 2021 WL 6064006, at *12 (N.D. Cal. Dec. 22, 2021) (citing *Ctr. For Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1096-97 (9th Cir. 2016)). The compelling reasons standard applies to any sealing request made in connection with a motion that is “more than tangentially related to the merits of a case.” *Id.* Accordingly, I understand courts in this district apply a “compelling reasons” standard to a

1 sealing request made in connection with a motion for summary judgment. *See, e.g., Snapkeys,*
 2 *Ltd. v. Google LLC*, No. 19-CV-02658-LHK, 2021 WL 1951250, at *2 (N.D. Cal. May 14, 2021).

3 5. I further understand that confidential technical information about product features,
 4 architecture, and development satisfies the “compelling reason” standard. *See Delphix Corp. v.*
 5 *Actifio, Inc.*, No. 13-cv-04613-BLF, 2014 WL 4145520, at *2 (N.D. Cal. Aug. 20, 2014) (finding
 6 compelling reasons to seal where court filings contained “highly sensitive information regarding
 7 [an entity’s confidential] product architecture and development”); *Guzik Tech. Enterprises, Inc. v.*
 8 *W. Digital Corp.*, No. 5:11-CV-03786-PSG, 2013 WL 6199629, at *4 (N.D. Cal. Nov. 27, 2013)
 9 (sealing exhibit containing “significant references to and discussion regarding the technical
 10 features” of a litigant’s products). Under this “compelling reasons” standard, the Court should
 11 order the above-listed documents sealed.

12 6. The Joint Discovery Letter references and contains Sonos’s confidential business
 13 information and trade secrets, including details regarding the source code, architecture, and
 14 technical operation of various products. The specifics of how these functionalities operate is
 15 confidential information that Sonos does not share publicly. Thus, public disclosure of such
 16 information may lead to competitive harm as Sonos’s competitors could use these details
 17 regarding the architecture and functionality of these products to gain a competitive advantage in
 18 the marketplace with respect to their competing products. A less restrictive alternative than
 19 sealing the portions contained within the red box would not be sufficient because the information
 20 sought to be sealed is Sonos’s confidential business information and trade secrets, and Google
 21 submitted this information in support of its position.

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I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed this 17th day of November, 2022 in Chicago, Illinois.

COLE B. RICHTER